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6 **UNITED STATES BANKRUPTCY COURT**  
7 **DISTRICT OF ARIZONA**

8 In re

9 STEVE PANDI and  
10 EILEEN A QUEZADA,

11 Debtors.

Chapter 11

Case No. 2:16-bk-11585-SHG

**OBJECTION TO US TRUSTEE'S  
MOTION TO CONVERT OR  
DISMISS and JOINDERS  
THERE TO**

13 The Debtors, through counsel undersigned, respectfully objects to the US Trustee's  
14 Motion to Convert or Dismiss and Joinders filed thereto. This Objection is supported by  
15 the Memorandum of Points and Authorities which is attached hereto and incorporated  
16 herein by this reference.

17 DATED: March 29, 2017.

18  
19 /s/ AME018326

20 Andrew M. Ellis  
21 *Attorney for Debtors*  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 ***US Trustee's Motion to Convert or Dismiss***

3 1. On March 24, 2017, the Debtors filed an amended October 2016 monthly  
4 operating report and monthly operating reports for December 2016, January 2017, and  
5 February 2017.

6 2. According to the Debtors' records, they paid the quarterly fee for the 4<sup>th</sup>  
7 quarter 2016 with check no. 389 in the amount of \$325.00 dated 01/30/2017. According to  
8 their records, the check cleared their account on 02/22/2017.

9 3. Although the Debtors sold their rental property in Las Vegas, Nevada, the  
10 Debtors have a lease agreement with the purchasers which allows them to continue using  
11 that property. As shown in their monthly operating reports, the Debtors maintain the Las  
12 Vegas property, which continues to generate rental income. The Debtors still own the  
13 property in Glendale, Arizona, and it too continues to generate rental income. Therefore,  
14 there has been no substantial loss to or diminution of the bankruptcy estate and there  
15 remains a reasonable likelihood of rehabilitation within the meaning of 11 U.S.C. §  
16 1112(b)(4)(A).

17 ***Arizona Department of Revenue's Joinder***

18 4. The Debtors owned and previously operated Jumpin Jammerz, LLC (the  
19 "Business"). On April 19, 2011, Merchant Capital Source LLC filed a UCC Financing  
20 Statement with the Arizona Secretary of State, document no. 2011-16520938, which lists  
21 the Business as the debtor. On May 21, 2014, George Pandi filed a UCC Financing  
22 Statement with the Arizona Secretary of State, document no. 2014-001-6561-2, which lists  
23 the Business and Steve Pandi as debtors. In February 2016, Merchant Capital Source LLC  
24 agreed to assign its lien and claim to George Pandi for approximately \$25,000. In April  
25 2016, George Pandi foreclosed its liens against the assets of the Business in full satisfaction  
26 of the debt owed by the Business.<sup>1</sup> The Debtors do not believe that George Pandi's lien  
27 foreclosure of the Business' assets constitutes a preference under 11 U.S.C. § 547 and/or a  
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<sup>1</sup> See Initial Periodic Report, Doc 106, page 36.

1 fraudulent transfer under 11 U.S.C. § 548 in this case. Any failure to disclose the  
2 05/21/2014 UCC Financing Statement and lien foreclosure in the Debtors' Statement of  
3 Financial Affairs was inadvertent and not intentional.

4 5. The Debtors have been working to ensure all required tax returns have been  
5 completed and filed. Because the Debtors still derive income from two rental properties  
6 and their on-line business, they believe there is sufficient income to propose a feasible Plan  
7 of Reorganization.

8 6. The Debtors did not take draws from Jumpin Jammerz, LLC totaling  
9 \$378,224.97 for the period of December 1, 2015 through July 31, 2016, and did not take  
10 draws from Aww So Cute, Inc. totaling \$23,359.43 for the period of December 1, 2015  
11 through July 31, 2016. The Statement of Changes in Equity, often referred to as a Statement  
12 of Retained Earnings in U.S. GAAP, details the change in owners' equity over an  
13 accounting period by presenting the movement in reserves comprising the shareholders'  
14 equity. Movement in shareholders' equity over an accounting period comprises the  
15 following elements:

- 16 a. Net profit or loss during the accounting period attributable to shareholders
- 17 b. Increase or decrease in share capital reserves
- 18 c. Dividend payments to shareholders
- 19 d. Gains and losses recognized directly in equity
- 20 e. Effect of changes in accounting policies; or
- 21 f. Effect of correction of prior period error.

22 According to the Debtors' certified public accountant (CPA), the \$378,224.97 which  
23 appears on the Statement of Changes in Equity from 12/31/15 to 07/31/16<sup>2</sup> is comprised of  
24 net draws of \$136,758.58 to the Debtors and a variety of accounting entries to close out  
25 various balance sheet accounts to the Debtors' draw account, totaling \$514,983.55, which  
26 also includes the AwwSoCute and George Pandi loans, because they will never be paid  
27 back; *see, e.g.*, the Business lien foreclosure discussion, *supra*. The same can be said about  
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<sup>2</sup> Initial Periodic Report, Doc 106, page 33.

1 the \$23,359.43 which appears on the Statement of Changes in Equity for Aww So Cute,  
2 Inc.

3 7. The Debtors did not list Aww So Cute, Inc. ("ASC Inc.") within their  
4 schedules because, on the date of filing, the business was not operating and not in good  
5 standing with the State of Nevada. However, the Debtors listed ASC, Inc on their Statement  
6 of Financial Affairs because the business had operating during the four-year period pre-  
7 petition.

8 8. The Debtors disclosed that Jumpin Jammerz LLC held inventory valued at  
9 \$413,725.00 as of December 31, 2015. Jumpin Jammerz LLC continued selling, but did  
10 not replenish, its inventory after December 31, 2015. It was still in a chapter 11 bankruptcy  
11 case, and business was not thriving. In early 2016, Jumpin Jammerz LLC was evicted from  
12 its warehouse. It had to transfer its entire operations, including inventory, to a new location.  
13 During the transfer, 10% of the inventory was lost or damaged. There were many factors  
14 which diminished the value of the inventory when George Pandi foreclosed his liens  
15 against the assets of Jumpin Jammerz LLC: expired licenses, which prohibited the sale of  
16 some items; faulty or defective items (e.g., zippers that snap or fall off); and incomplete  
17 stock (e.g., size XL in pink only).

18 9. When Jumpin Jammerz LLC was formed, George and Efrosini Pandi each  
19 held a 5% interest. They have always held that interest. Failure to list their interest in this  
20 bankruptcy case was not intentional; it was an oversight. However, George and Efrosini  
21 Pandi have never received any distributions, compensation or draws from Jumpin Jammerz  
22 LLC. As reflected in the Debtors' tax returns, Jumpin Jammerz, LLC has always been  
23 treated as a sole proprietorship.

24 10. Merchant Capital Source LLC had a lien against the accounts receivable,  
25 other accounts, chattel paper, documents, equipment, fixtures, general intangibles,  
26 instruments, inventory, and investment property of Jumpin Jammerz LLC. Jumpin  
27 Jammerz, LLC agreed to purchase domain name pajama.com for \$150,000 several years  
28 ago from a French seller. Jumpin Jammerz LLC had paid about 60% of the purchase price

1 when it filed its voluntary petition in 2015. In early 2016, Merchant Capital Source LLC  
2 assigned its lien and claim to George Pandi. Jumpin Jammerz LLC still owns pajama.com,  
3 but its value has diminished to less than \$2,000.00. The copyrighted pajama designs were  
4 some trademarked designs and logos for the Jumpin Jammerz pajamas. Since the value of  
5 the company has fallen, the value of the designs and logos have also fallen substantially.  
6 When George Pandi foreclosed his liens in April 2016, he took control of the pajama  
7 designs and logos.

8 11. Steve Pandi was the sole shareholder of Aww So Cute, Inc., a Nevada  
9 corporation. The assets of Aww So Cute, Inc. were encumbered by liens. The Debtors made  
10 all the required disclosures about Aww So Cute, Inc. in the initial periodic report.

11 12. As discussed above, Jumpin Jammerz LLC owed George Pandi money. After  
12 purchasing the security interest of Merchant Capital Source LLC, George Pandi had liens  
13 against all the assets of Jumpin Jammerz LLC. The letter from the attorney for George  
14 Pandi to *Jumpin Jammerz LLC* dated April 6, 2016 indicates that George Pandi gave notice  
15 to accept the pledged collateral of *Jumpin Jammerz LLC* as “full payment and satisfaction  
16 of the debt” owed by *Jumpin Jammerz LLC*. After the foreclosure, Jumpin Jammerz LLC  
17 owed George Pandi nothing. The accountant made appropriate adjustments to the balance  
18 sheet and other financial reports to reflect the satisfied debt (See Doc 106).

19 13. George and/or Efrosini Pandi filed a secured claim against the estate (Claim  
20 17). A claim or interest is deemed allowed unless a party in interest objects. 11 U.S.C. §  
21 502. Therefore, it appears that George and/or Efrosini Pandi have a secured claim against  
22 the estate.

23 14. The initial periodic report (Doc 106) does not state that the Debtors sold  
24 Jumpin Jammerz LLC for the sum of \$413,115.99. Per their CPA, that amount was listed  
25 as an expense to write off the assets on the balance sheet:

Inventory	\$413,725.00
Fixed assets	\$227,458.17
Accumulated depreciation	-\$227,458.17

Cash – Paypal	\$51.86
Cash overdraft – BOA	-\$660.87
TOTAL	\$413,115.99

15. The Debtors initially listed a potential claim against Allen D. Butler for negligence and professional negligence on Schedule B. Mr. Butler also held a deed of trust against the Las Vegas rental property. When the Las Vegas property was sold, Mr. Butler and the Debtors settled all claims they had or may have had against each other.

***Joinder by SAMT 2009, LLC, Ross Family Holdings, LLC and Entrepreneur Opportunity Fund I, LP***

16. All required operating reports have been filed. Since December 2016, the operating reports show positive net income.

17. Allegations of fraudulent transfers alone are not a basis for dismissing or converting a case. The creditors allege, but have not proven, fraudulent transfers by the Debtors. Culver City Properties LLC did not allege a fraudulent transfer by the Debtors. Culver City Properties LLC alleged, but did not prove, a fraudulent transfer by 21229 N 52nd Avenue LLC. The Arizona Department of Revenue, alleges, but has not proven, fraudulent conveyances by the Debtors.

18. Within one year prior to filing the case, the Debtors did not make withdrawals of \$1.8 million in July 2016 and \$2.2 million in December 2015. The creditors pulled those numbers from the balance sheets of Jumpin Jammerz LLC; see Initial Periodic Report, Doc 106 at pages 23 and 24. A balance sheet is a statement of the assets, liabilities, and capital of a business or other organization at a point in time, detailing the balance of income and expenditure over the applicable period. Per the Debtors' CPA, the amounts at issue represent the accumulated amounts from the inception of Jumpin Jammerz in 2006 to date of the net of a variety of ins and outs in the Debtors' draw account. While it is mostly draws or loans to the Debtors, there are other items in it as well.

19. The monthly operating reports show income from both rental properties and the Debtors' on-line retail store. Therefore, there remains a reasonable likelihood of rehabilitation within the meaning of 11 U.S.C. § 1112(b)(4)(A).

WHEREFORE, for the foregoing reasons, the Debtors respectfully request that the US Trustee's Motion to Convert or Dismiss, and the Joinders thereto, be denied.

DATED: March 29, 2017.

/s/ AME018326

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Andrew M. Ellis

## Attorney for Debtors

ORIGINAL filed electronically with the United States Bankruptcy Court, District of Arizona, on March 29, 2017 and a copy e-mailed or mailed this same day to:

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